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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **EX.F.A. 6/2025**

**SHRI BALLABH SINGH**

.....Appellant

Through: Mr. Arijit Prasad, Sr. Adv. with  
Mr. Ramjee Pandey, Adv.

versus

**SHRI SURESH KUMAR MALHOTRA & ORS.**

.....Respondents

Through:

**CORAM:**

**HON'BLE MR. JUSTICE DINESH KUMAR SHARMA**

**ORDER**

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**13.02.2025**

**CM APPL. 8728/2025 (Exemption)**

Exemption is allowed subject to all just exceptions.

**EX.F.A. 6/2025**

1. Present execution first appeal has been filed challenging the order dated 16.01.2025 whereby the objection filed by the appellant under Order XXI Rule 97 was dismissed by the learned District Judge-01, South West, Dwarka, New Delhi.
2. Mr. Arijit Prasad, learned senior counsel for the appellant states that the appellant has purchased the suit property from Yashwender Singh/respondent No.3.
3. Learned senior counsel for the appellant submits that the property was initially owned by Sh. Ashok Kumar Malhotra, who subsequently sold it to respondent No. 2, Abdul Hamed. Respondent No. 2, in turn, sold the property to respondent No. 3, Yashwender Singh, from whom the appellant acquired the property.



4. Learned senior counsel further submits that the decree holder filed a suit against Ashok Kumar Malhotra, bearing CS No. 455/2021, titled *Suresh Kumar Malhotra v. Ashok Kumar Malhotra*. In the said suit, the appellant filed an application under Order 1 Rule 10 CPC, which was dismissed by the learned Additional District Judge-01, South West, Delhi, vide order dated 22.09.2014. Although this order was not challenged, the appellant subsequently filed a separate suit against Ashok Kumar Malhotra and Yashwender Singh, bearing CS No. 456/2016, titled *Shri Ballabh Singh v. Ashok Kumar Malhotra*, which is currently at the stage of evidence. Learned senior counsel contends that the Executing Court, without considering the entire facts and circumstances, dismissed the appellant's objections solely on the ground that since his application under Order 1 Rule 10 CPC was dismissed and no appeal was filed, he had no locus to raise objections.
5. Learned senior counsel submits that the appellant has been in possession of the property for the last 13 years, and if his possession is disturbed during the pendency of his suit, it will lead to further complications and multiplicity of litigation.
6. Issue notice to the respondent and counsel through all permissible modes upon taking steps by the appellant, returnable on 23.07.2025.
7. In the meantime, let TCR be requisitioned in the digital format before the next date of hearing.
8. In the meantime, let both the parties file brief written submissions not exceeding three pages [*with reference to the PDF page number of the digital record of the Court*] along with relevant judgments [*with an index of the specific paragraphs of the said decision and the*



*corresponding proposition of law, to be relied on]* within four weeks with an advance copy to the opposite party at least a week in advance before the next date of hearing.

9. Respondents are also directed to file the reply within four weeks with copy to the learned counsel for the appellant

**CM APPL. 8727/2025**

1. The present application has been filed seeking a stay on the execution of the decree dated 16.01.2025.
2. Learned senior counsel for the appellant submits that the suit bearing CS No. 456/2016, *titled Shri Ballabh Singh v. Ashok Kumar Malhotra*, concerning the suit property, is pending before the learned Trial Court. It is further submitted that objection have been summarily dismissed by the learned Executing Court and therefore the proceedings may be stayed.
3. Issue notice to the respondent and counsel through all permissible modes upon taking steps by the appellant, returnable on 23.07.2025.
4. Learned senior counsel for the appellant submits that a suit concerning the subject matter is pending adjudication and that the objections under Order XXI Rule 97 CPC have been dismissed primarily on the ground that no appeal was filed against the dismissal of the application under Order 1 Rule 10 CPC.
5. Let the operation of the impugned order dated 16.01.2025 be stayed till the next date of hearing.

**DINESH KUMAR SHARMA, J**

**FEBRUARY 13, 2025**

*Pallavi/NA*